

JOHN A. JENKINS

ALEXANDRIA DIVISION

PLAINTIFF

FILED

GARY MOTYLZKA  
AND  
EBAY INC.  
DEFENDANTS

CIVIL ACTION NO.

1:08CV94-GBL/JFA  
2008 JAN 30 PM 1:09COMPLAINT and MOTION FOR INJUNCTIVE RELIEFJENKINS v. MOTYLZKA ET AL  
ALEXANDRIA, VIRGINIA

Comes now dependent – Movant John A. Jenkins, dba Jenkz Innovative Design, LLC, Pers Se, and respectfully complains and moves this Honorable Court for an ORDER requiring dependants to cease and desist from in engaging in activities promoting, marketing, listing for sale, selling, advertising, manufacturing, modifying or otherwise assisting in the transfer of title interest in property rights protected by Patent Number US D548,660 S. In support thereof, movant states as follows:

1. That jurisdiction of this court is evoked pursuant to, inter alia, 28 U.S.C. 1332, Diversity of Citizenship; 28 U.S.C. 1357, Injuries Under Federal Law; 17 U.S.C. 512, Digital Millennium Copyright Act. The amount in controversy exceeds \$75,000.
2. That, at all relevant times herein, Plaintiff was and is a bona fide resident of Springfield, Fairfax County, Virginia dba Jenkz Innovative Design, LLC, a Virginia entity.
3. That Defendant Gary Motylzka was and is a resident of Warren, New Jersey.
4. That Defendant Ebay, Inc. is an entity incorporated in California and conducting business in Utah, Virginia and other states.
5. That Plaintiff John A. Jenkins is the rightful owner of rights vested in United States Design Patent Number US D548,660 S, dated August 14, 2007, described as “Chrome sleeve that covers the top and sides of the grille in front of the radiator of an automobile”. (see Attachment A).

6. That Defendant Gary Motylzka has listed with defendant Ebay, Inc. property design labeled item #370010900410 (Chrysler 300C Limited Touring SRT8 Bumper upgrade).

7. That Defendant Ebay Inc. has promoted and continues to promote the listing contained in provision six (6), supra, via its website.

8. That both Defendants herein have been informed that the use of the subject property design referred to in provision six(6), supra, is unauthorized, duplicates the design protected by Patent Number US D548,660 S, and amounts to an infringement of same.

9. That notwithstanding provision eight (8),supra Defendants herein have and continue to engage in a conspiracy to intentionally deprive Plaintiff of his protected intellectual property interests, inflict mental distress, interfere with contractual relationship and otherwise cause loss and harm to Plaintiff by infringing Plaintiff's subject patent.

10. That should Defendants herein successfully sell the pertinent Design herein, Plaintiff will suffer irreparable hardship.

11. That an Order requiring Defendants to cease and desist in their conduct herein would not result in loss or harm to said Defendants.

12. That based on the pertinent Facts herein, it is more likely than not that Plaintiff will prevail on the merits herein.

13. That fundamental justice mandates that this Court exercise its discretion to grant injunctive relief herein to, inter alia, prevent unjust enrichment to Defendants.

WHEREFORE, the premises considered, Plaintiff moves this Court to:

1. Order Defendants to cease and desist from any and all conduct promoting property interest transfers relating to subject Patent Number US D548,660 S.

2. Grant judgment against Defendants, individually and jointly, in favor of Plaintiff, in the amount of one million (\$1,000,000) dollars, plus costs, fees and interests.
3. And for such other and further relief as to this Honorable Court may seem just, proper and fair.

Respectfully submitted,



1/29/08

John A. Jenkins, Pro Se  
dba Jenkz Innovative Design, LLC  
6401 True Lane  
Springfield, VA 22150  
(703) 971-5711  
Plaintiff-movant

Points and Authorities

1. Applicable laws
2. Fundamental justice
3. Equity

(12) **United States Design Patent** (10) **Patent No.:** **US D548,660 S**  
**Jenkins** (45) **Date of Patent:** **\*\* Aug. 14, 2007**

(54) **CHROME SLEEVE THAT COVERS THE TOP AND SIDES OF THE GRILLE IN FRONT OF THE RADIATOR OF AN AUTOMOBILE**

(76) **Inventor:** **John Andrew Jenkins**, 6401 True La.,  
Springfield, VA (US) 22150-1031

(\*\*) **Term:** **14 Years**

(21) **Appl. No.:** **29/241,809**

(22) **Filed:** **Nov. 2, 2005**

(51) **LOC (8) Cl.** ..... **12-16**

(52) **U.S. Cl.** ..... **D12/196; D12/181**

(58) **Field of Classification Search** ..... **D12/90-92,**  
**D12/181, 86, 169, 196, 173; 296/180.1-180.5;**  
**293/102, 113, 115, 117, 120; 180/69.21-69.25,**  
**180/68.6; 239/498-500; 108/99-101**

See application file for complete search history.

(56) **References Cited**

#### U.S. PATENT DOCUMENTS

D278,043 S 3/1985 Avery  
D284,843 S 7/1986 O'Donnell et al.  
4,842,319 A 6/1989 Ziegler et al.  
D305,633 S 1/1990 Kingsley  
D327,276 S 6/1992 Sorensen  
D356,095 S 3/1995 Innes  
D360,609 S 7/1995 Ramaciotti  
D389,108 S 1/1998 Norwood et al.  
D404,697 S 1/1999 Siltavuori  
D412,874 S 8/1999 Meryman et al.  
D424,477 S 5/2000 Lund  
D425,835 S 5/2000 Cook et al.  
D452,464 S 12/2001 Beigel  
D485,220 S \* 1/2004 Pevytoe et al. .... D12/181  
D489,665 S 5/2004 Zavatski et al.

D490,024 S 5/2004 Zavatski et al.  
D494,101 S 8/2004 Zavatski et al.  
D502,897 S 3/2005 Delashaw et al.  
D502,901 S \* 3/2005 Delashaw et al. .... D12/173  
D506,167 S 6/2005 Wu  
D530,247 S \* 10/2006 Angelo et al. .... D12/163  
D537,761 S \* 3/2007 Beigel et al. .... D12/173

#### FOREIGN PATENT DOCUMENTS

FR 2 783 766 3/2000  
JP 1-156154 6/1989

\* cited by examiner

*Primary Examiner*—Melody N. Brown

(74) *Attorney, Agent, or Firm*—Swift Law Office; Stephen Christopher Swift

(57) **CLAIM**

The ornamental design for a chrome sleeve that covers the top and sides of the grille in front of the radiator of an automobile, as shown and described.

#### DESCRIPTION

FIG. 1 is a perspective view of a chrome sleeve that covers the top and sides of the grille in front of the radiator of an automobile, showing my new design;

FIG. 2 is a front elevational view thereof;

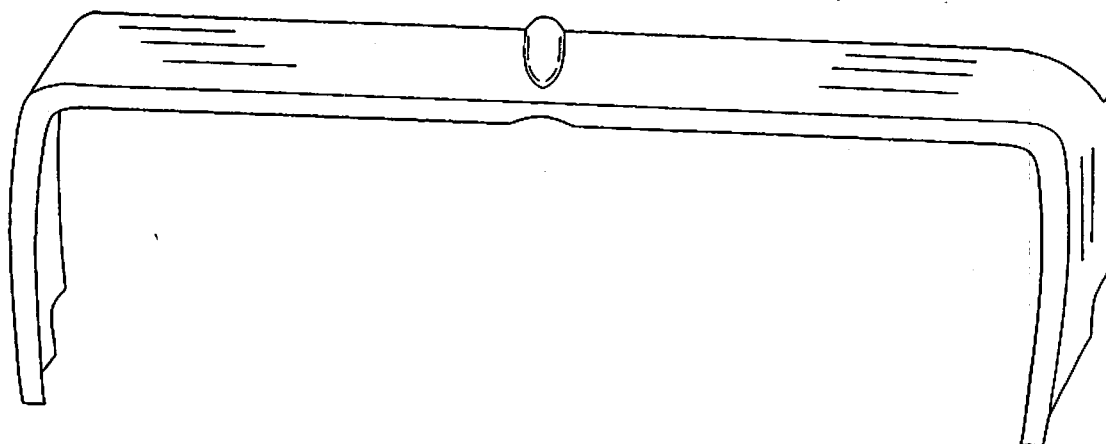
FIG. 3 is a rear elevational view thereof;

FIG. 4 is a top view thereof;

FIG. 5 is a right side elevational view with the left side being a mirror image thereof; and,

FIG. 6 is a bottom view thereof.

**1 Claim, 6 Drawing Sheets**





eBay Inc.

VeRO Program

PO Box 1497

Draper, Utah 84020

Tuesday, January 15, 2008

[www.ebay.com](http://www.ebay.com)

Via Fax and Regular Mail

John Andrew Jenkins  
Jenkz Innovative Design, LLC  
6401 True Lane  
Springfield, VA 22150

Re: Counter Notice Regarding Removed Listing(s)

Dear John,

Enclosed is a Counter Notice that was completed by an eBay user. This user believes that the noted listings, which you requested be ended, were removed in error.

Since eBay neither sees nor inspects any of the items that are offered for sale on the site, we are unable to judge their authenticity or legality. However, recognizing that errors may be made or there may be genuine disputes over the legality of items, eBay follows a Counter Notice procedure for handling situations where a user disputes the removal of their listing. This procedure substantially follows the requirements of the Digital Millennium Copyright Act, 17 U.S.C. section 512, as amended.

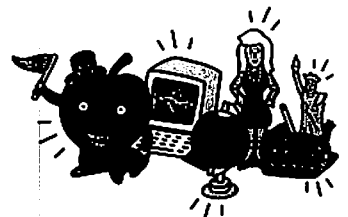
Please note that if, within 10 business days after receipt of this letter, we do not receive notification that you have filed an action in federal court seeking an order to restrain the user from re-listing, we are required to allow the seller to repost the listings we removed from eBay pursuant to your notice.

Accordingly, please notify us by January 30, 2008 whether you have sought the necessary court order. Otherwise, we will allow the user to repost the removed listing. Alternatively, you may notify us immediately that the items may be relisted and we will notify the user.

Please let us know if you have any questions.

Very truly yours,

Yuri  
VeRO Program  
Fax: (408) 516-8811  
[vero@ebay.com](mailto:vero@ebay.com)



### COUNTER-NOTICE REGARDING REMOVED LISTING

I am aware that JENKZ INNOVATIVE DESIGN LLC, a participant in eBay's Verified Rights Owner (VeRO) Program (the "Reporting Party"), has submitted a sworn notice of infringement stating that the listing(s) identified below infringes its intellectual property rights.

*I understand that eBay has removed such listing(s) at the request of the Reporting Party. I further understand that if, within ten business days of your receiving this notice, the Reporting Party does not file a legal action in federal court seeking to prevent me from re-posting the identified listing(s) and/or seeking a federal court order to restrain me from engaging in infringing activity relating to such listings, eBay will allow me to re-post the listing(s).*

Therefore, I, the undersigned, **CERTIFY UNDER PENALTY OF PERJURY** that:

The listing(s) identified below does not offer an item that infringes, and the listing(s) does not itself infringe, upon the Intellectual Property Rights of the Reporting Party.

#370010900410 - chrysler 300c limited Touring SRT & Bumpet  
upgrade

I will not offer any items or place any listings on eBay that infringe upon the Intellectual Property Rights of the Reporting Party.

**Indemnification.** I agree to indemnify eBay from and against any and all claims, losses, liabilities, costs, and expenses, including reasonable attorneys' fees, which eBay may incur in connection with any of the listing(s) identified above or the items offered therein.

**False Statements.** I understand that my knowing misrepresentation herein that material was removed by mistake or misidentification may expose me to legal liability for damages, including costs and attorneys' fees. I further understand that perjury is a felony which may be punishable by imprisonment of not more than five years or a fine.

**Legal Action.** I understand that if the Reporting Party disagrees with this Counter-Notice, it may file a legal action against me to prevent the re-posting of the above-referenced listing(s).


**Consent to Federal Jurisdiction and Service of Process.** For any actions that might arise out of the listing(s) identified above, I consent to the jurisdiction of the Federal District Court for the County of Santa Clara, California. I further agree to accept service of process from the Reporting Party or its agent, law enforcement, and eBay for any such actions.

**Contact Information.** I certify that the following contact information is accurate and valid. I acknowledge that eBay will compare the contact information provided herein with my eBay contact information, and false or fraudulent information may result in suspension of my eBay account(s).

I may be contacted at:

Name: GARY MOTYCZKA  
eBay User ID: TRISTATEAUTO  
Street Address\*: 11 RIDGEWAY DR WARREN NJ 07059  
City, State, and Zip: WARREN NJ 07059  
Email address: GARY61@OPTONLINE.NET  
Telephone: 908 241 2885  
Fax: 908 241 5605

\* Please provide the street address at which you reside; a Post Office (P.O.) Box or the like is not sufficient.

Signature   
**UNDER SWORN PENALTY OF PERJURY**  
Date JANUARY 10<sup>TH</sup> 2008

Please fax your completed Counter-Notice to (408) 516-8811